IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :
THE HON'BLE MR.JUSTICE V. RAMKUMAR
MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Crl.Rev.Pet.No. 3247 of 2007()

AGAINST THE ORDER IN CMP 4070/07 IN C.P.NO.29 OF 2007
OF J.F.C.M.I CHERTHALA

REVN. PETITIONER: PETITIONERS:
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1. ANTONY @ PYLIKUTTAN, S/O. PYLI,
CHIRAYIL VEEDU, PATTANAKKAD PANCHAYAT, WARD XV.

2. IGNASIOUS @ INTHANAM SAJI, S/O. PYLI,
CHIRAYIL VEEDU, PATTANAKKAD PANCHAYAT, WARD XV.

BY ADV. SRI.G.PRIYADARSAN THAMPI

RESPONDENTS: RESPONDENT:

STATE OF KERALA,
REPRESENTED BY THE CIRCLE INSPECTOR OF POLICE,
KUTHIATHODE POLICE STATION THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 3247 of 2007

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Dated: 17-09-2007

ORDER

Petitioners who are accused Nos. 5 and 6 in Crime No. 109 of 2007 of Pattanakkadu Police Station for offences punishable under Sections 143, 147, 148, 149, 323, 324, 427 and 302 read with Sec. 149 I.P.C. filed C.M.P. No. 4070 of 2007 before the Committal Magistrate namely, J.f.C.M.-I, Cherthala in C.P. 29 of 2007 stating that the charge sheet filed in the case was incomplete and defective and that there cannot be any piece meal charge-sheet filed by the charging officer.

2. The learned magistrate refused to entertain the said contention and dismissed C.M.P. 4070 of 2007. Hence, this revision.

3. The learned counsel appearing for the revision petitioners made the following submissions before me in support of the revision :-

Eventhough the charge-sheet makes mention of the fact that altogether there were 26 assailants, the persons who have been charge-sheeted are only A1 to A11, A13 to A15, A17 and A18 and there is no mention about the names or other details of A12, A16 and A19 to A26. The charge sheet against the aforementioned accused namely A1 to A11, A13 to 15, A17 and A18 was filed within the statutory period of 90 days under Sec. 167 Cr.P.C. with the designated object of denying bail to the apprehended accused. The charge-sheet against the aforementioned A12, A16 and A19 to A20 is incomplete and defective. The decision reported in **Furtado v. C.B.I. 1996 (2)**

KLT 1 shows that there cannot be any piece meal charge-sheet filed under Sec. 173 (2) Cr.P.C.. The statement in the charge-sheet that consequent on the investigating officer coming to know of the names and other details of A12, A16 and A19 to A26, a report has been forwarded to the Committal Magistrate to that effect, is false. As per clause (a) of Sec. 173 (2) Cr.P.C. the charging officer is bound to furnish the names of the parties. When the charge sheet does not disclose the names of accused Nos. 12,16 and 19 to 26, it cannot be said that there is compliance of the said provision so as to render the charge-sheet a complete and proper one.

4. The learned Public Prosecutor confessed that no report as mentioned in the charge-sheet was filed before the committal court and that as on the date of filing of the charge-sheet the investigating agency was in the dark regarding the names of A12, A16 and A19 to A26 except that those persons had also participated in the crime. The learned Public Prosecutor further submitted and subsequently the investigating agency is aware of the names and details of the aforesaid accused persons.

5. It may be true that with regard to the aforementioned accused persons who have not been apprehended by the police, certain details including their names are missing in the charge sheet. But with regard to A1 to A11, A13 to A15, A17 and A18 who are the persons who were apprehended during investigation and who have been placed on trial as per the charge-sheet it cannot be said that the charge sheet, is incomplete or defective. If the police report (charge sheet) contains necessary details so as to enable the Magistrate to take cognizance of the offence and proceed further, it cannot be said that there is failure of compliance of Section 173 (5) Cr.P.C. The

charge sheet in such a case cannot be said to be defective or incomplete. **(Kamalaksha v. S.I. of Police - ILR 2007 (1) Kerala 119)** If the charge-sheet suffers from deficiencies with regard to those accused persons who have not been apprehended, that is a matter which the revision petitioners and others can take full advantage of during trial. But that does not mean that the charge-sheet before court, so far as it relates to the apprehended accused is concerned, is incomplete or defective. Hence, I do not find any substance in the contention raised by the revision petitioner.

This revision is accordingly dismissed.

V. RAMKUMAR,
(JUDGE)

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